

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO. 04-10299-RGS

NEW ENGLAND WATERPROOFING,
INC., a Massachusetts corporation, doing
business under the trademark "Crack-X,"
Plaintiff

v.

DAVID DALESSANDRI,
Defendant

**JOINT STATEMENT SUBMITTED PURSUANT TO
FED.R.CIV.P.26(f) AND LOCAL RULE 16.1**

Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 16.1, counsel for the plaintiff, New England Waterproofing, Inc. ("NEWI") and counsel for the defendant, David A. Dalessandri ("Dalessandri") have conferred via telephone conference. The parties now propose the following Joint Statement pursuant to L.R. 16.1.

I. PROPOSED AGENDA FOR SCHEDULING CONFERENCE

The parties propose that the agenda for the scheduling conference include a discussion of the following topics:

1. The parties' proposed discovery plan and pretrial schedule;
2. Timing of motions to amendments to the pleadings and dispositive motions;
3. Settlement and mediation possibilities; and
4. A date for the Final Pre-Trial Conference.

II. JOINT DISCOVERY PLAN

The parties have considered the desirability of phased discovery and have agreed that it is necessary in this case. Accordingly, the parties suggest the following schedule for discovery.

A. INITIAL DISCLOSURES

In accordance with Local Rule 26.2(a), the parties anticipate completing the disclosure of relevant documents and information as required under Fed. R. Civ. P. 26(a)(1) on or before July 9, 2004.

B. FACT DISCOVERY DEADLINE

The parties propose that all fact discovery, including depositions, be completed by January 31, 2005.

C. WRITTEN DISCOVERY REQUESTS

The parties agree that no more than thirty (30) interrogatories, and no more than two (2) separate sets of requests for production may be served on each of the parties. The parties propose that written discovery requests to another party may be served at any time after the party serving such requests has made its initial disclosure pursuant to Fed. R. Civ. P. 26(a).

D. DEPOSITIONS

The parties propose that they may notice and take depositions at any time after the scheduling conference within the confines of Fed. R. Civ. P. 30 and Local Rule 26.1(c).

E. EXPERT DISCLOSURE AND DISCOVERY

The parties propose that each party's disclosure of any proposed expert witness shall be made no later than February 28, 2005. Any additional expert disclosures intended to contradict or rebut a party's expected expert testimony must be made no later than March 14, 2005. Depositions of expert witnesses shall be taken as provided in Fed. R. Civ. P. 26 by April 29, 2005.

III. FILING OF MOTIONS

A. AMENDMENTS TO THE PLEADINGS.

All motions to amend the pleadings shall be filed on or before July 29, 2004. NEWI intends to amend the complaint to add Concrete Prescriptions, Inc. as a party, and has requested Dalessandri's assent to such motion.

B. DISPOSITIVE MOTIONS.

All dispositive motions will be filed by May 31, 2005.

IV. FINAL PRE-TRIAL CONFERENCE AND DISCLOSURES

The parties propose that the final Pre-trial Conference be scheduled as soon as practicable after May 30, 2005 if no dispositive motion has been filed. If dispositive motions have been filed, the parties agree to the scheduling of a final Pre-trial Conference within forty-five (45) days after the entry of a decision with respect to such dispositive motion(s).

V. TRIAL BY MAGISTRATE JUDGE

Dalessandri does not consent to trial by a Magistrate Judge.

VI. CERTIFICATIONS

The certifications required by Local Rule 16.1(D)(3) are attached hereto or will be filed separately on or before the day of the conference.

Respectfully submitted,

/s/ Paul R. Johnson

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